



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

SETH MURDOCK,

Petitioner,

Civ. No. 06-12551

Crim. No. 02-80882

vs.

Hon. Gerald E. Rosen

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION AND  
DISMISSING PETITIONER'S §2255 ACTION

At a session of said Court, held in  
the U.S. Courthouse, Detroit, Michigan  
on April 18, 2007

PRESENT: Honorable Gerald E. Rosen  
United States District Judge

This matter having come before the Court on the February 5, 2007 Report and Recommendation of United States Magistrate Judge R. Steven Whalen recommending that the Court deny Petitioner Seth Murdock's § 2255 Motion to Vacate, Set Aside or Correct her Sentence as well as his Motion and Amended Motion for Summary Judgment and that this case, accordingly, be dismissed; and no timely Objections to the Magistrate Judge's Report and Recommendation having been filed; and the Court having reviewed Petitioner's Motion, the Magistrate Judge's Report and Recommendation, and the Court's file of this action and having concluded that, for the reasons stated in the Report and Recommendation, Petitioner's § 2255 motion and his motions for summary judgment should be denied and this

action, accordingly, should be dismissed; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of February 5, 2007 be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Petitioner Seth Murdock's § 2255 Motion (Docket Nos. 40 and 41), as well as his Motion and Amended Motion for Summary Judgment (Docket Nos. 49 and 50) be, and hereby are, DENIED, and the above-captioned § 2255 action is, accordingly, DISMISSED.

IT IS FURTHER ORDERED that, for the reasons stated by the Magistrate Judge, pursuant to 28 U.S.C. § 2243(c) and 28 U.S.C. § 2255, no certificate of appealability should issue for purposes of appeal of this matter. The Court will also deny Petitioner leave to appeal *in forma pauperis*. A petitioner seeking to appeal the denial of a habeas petition or a § 2255 motion will not be permitted to proceed *in forma pauperis*, where the appeal would be frivolous. *Hence v. Smith*, 49 F. Supp. 2d 547, 549 (E.D. Mich. 1999).

s/Gerald E. Rosen  
Gerald E. Rosen  
United States District Judge

Dated: April 18, 2007

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 18, 2007, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry  
Case Manager